

REMARKS:

- 1) Please withdraw the Final status and continue the examination of this application based on the present new claims and remarks, in view of the accompanying Request for Continued Examination (RCE).
- 2) The new claims 22 to 41 are based on the original claims as follows:

New cls.	22	23	24	25	26	27	28	29	30	31
Orig. cls.	1	2	4	5	6	7	20+21	8	9	10

New cls.	32	33	34	35	36	37	38	39	40	41
Orig. cls.	11	12	13	14	15	16	17	18	19	3

The new claims do not contain any new matter. The reference to "flexible synthetic materials" in new independent claim 22 is supported by the original specification page 8, lines 3 to 5 referring to: "The guard hoses 1 and 2 and the spacer or spacers 5 are preferably made of synthetic materials such as PTFE." It is known that these synthetic materials are flexible. Entry of new claims 22 to 41 is respectfully requested.

- 3) If the Examiner repeats the election requirement as to the new claims, applicant hereby elects claims 22 to 28 for examination. Claims 22 to 28 are based on original claims that have been elected and examined. Claims 29 to 41 are based on original claims 8 to 19 and claim 3 that stand "withdrawn". However, if a generic claim (e.g. independent claim 22) is found to be

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allowable, then claims 29 to 41 should be rejoined, considered and also allowed.

- 4) The rejections of claims 1, 2 and 20, 21 as being anticipated by US Patent 4,601,447 (McFarland) and of claims 1, 2, 4, 5, 6, 7, 20 and 21 as being anticipated by US Patent 1,098,077 (Annison) are respectfully traversed.
- 5) To paraphrase (and recast) a maxim frequently mentioned in real estate transactions, there are three basic requirements in aircraft construction: "weight reduction, weight reduction, weight reduction!". Keeping this notoriously basic requirement in mind, a person of ordinary skill in the art of aircraft construction, can see even with a perfunctory glance that neither the "support and clamping network" (col. 3, lines 30, 31) of McFarland nor the "dock retaining walls" (page 1, lines 14, 15) of Annison disclose any features that are comparable to the features as claimed herein, more specifically in new claims 22 to 41. Why? Because all the features actually disclosed by McFarland and/or Annison are heavyweight structures not suitable for use in an aircraft in which weight reduction is a prime consideration. It is significant in this regard, that the present new claims are expressly directed to a combination including an aircraft and a guard hose arrangement connected to the aircraft.
- 6) Namely, the present independent claim 22 recites the aircraft as a positive element to which the flexible guard hoses with their

spacers are connected "for protecting insulated electrical conductors installed in said aircraft". A positively recited claim element may not be disregarded by the Examiner. For practical purposes the present guard hose arrangement must be connected to the aircraft. Therefore, the aircraft may not be bracketed out of the claim for examination purposes. The references do not disclose an aircraft and guard hoses connected to an aircraft. For that reason alone, neither McFarland nor Annison is an anticipatory reference.

- 7) A publication is an anticipating reference only if it discloses or inherently includes all the elements recited in the claim. Neither McFarland nor Annison satisfies this basic requirement, for the rejection of a claim under 35 USC 102(b), for the following reasons. As just mentioned above, the present claims positively define an aircraft. The references do not disclose an aircraft. Furthermore, the claims define "a plurality of guard hoses made of flexible synthetic material". Hoses are by definition flexible, as opposed to pipes or conduits, which are stiff. Neither McFarland nor Annison disclose such a feature, because pipes and conduits repeatedly recited by McFarland are stiff by definition. The pipes or conduits of McFarland must be stiff because flexible guard hoses would yield to the impact when earth or concrete is back-filled into the trenches in which McFarland's anchoring system is installed. On the other hand, guard hoses to be installed in an aircraft must be flexible to follow the contours of the aircraft structure such as the inner surface of the aircraft body wall. The same considerations apply

to Annison who does not show any features that could be reasonably compared to the features claimed herein. A steel locking bar (b) of Annison is not a flexible guard hose. Therefore, the steel locking bar (b) is not comparable to, much less the same as, the present spacers. Merely perfunctorily reading the words of a claim on the disclosure of a reference without regard to what the reference actually discloses does not result in proper examination under 35 USC 102(b) of the invention as claimed.

- 8) Further, the Office Action recites as follows on page 2, third section:

"...wherein each of the second contours contacts a circumferential portion of a respective first contour to thereby partly encircle the respective first contour."

McFarland does not disclose such a feature, because the cross members 22 and 23 must encircle the pipe for 360° in order to cooperate as a clamp; col. 3, lines 50 to 63, particularly line 60. McFarland's clamps (cross members) 22, 23 are not formed with the pipes 14 as a one piece unitary component as now claimed. The same is true for Annison. The locking bar (b) is a component separate from the sheets (c). Therefore, neither McFarland nor Annison anticipate any one of claims 22 to 41.

- 9) Referring again to the allegation that "each of the opposite contours of the spacer of McFarland clearly contacts a circumferential portion of a respective first contour of the guard hose and partly encircle the respective first contour ..."

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(please see the first full paragraph on page 5 of the Office) Action, the following must be reemphasized:

- a) McFarland does not show a flexible guard hose, he shows a pipe or conduit which must be stiff for the purpose of backfilling the trench.
- b) McFarland's spacer is shown at 24 not at 22, 23. Two cross members 22, 23 of McFarland form a clamp that encircles the pipe for 360°, the gaps at 26, 28 notwithstanding. These gaps at 26, 28 are part of the complete encircling because the two cross members are interconnected at these gaps.
- c) The spacers 24 of McFarland do not even touch the respective pipe or conduit because the spacers 24 are connected to the cross members 22, 23 not to the pipe.

In view of these factual differences, it is not understood under what principles the Examiner reads the present claim language on McFarland or on Annison. Further, the present independent claim 22 now recites the spacer is positioned to directly contact the flexible guard hoses. No clamps are used according to the invention. McFarland's device could not function without the clamps 22, 23 because his system must be assembled in the trench prior to back-filling (col. 1, lines 16 to 30). McFarland's clamps are not spacers as contemplated by the Examiner because McFarland's spacer is expressly shown at 24 in the form of a strut extending between the lower and top cross members 22, 23, (see col. 3 lines 60, 61).

- 10) The rejection of claims 20 and 21 is respectfully further traversed for the following reasons. New claim 28, depending

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from independent claim 22, combines the features of prior claims 20 and 21. Claim 28 calls for directly interconnected matching junctions (6, 7) between the guard hoses and the spacer. The direct junctions (6, 7) are formed either by an adhesive bonding, or by welding or by a tongue and groove connection or by a unitary one piece construction. Neither McFarland nor Annison disclose such features. In McFarland, the cross members 22, 23 are interconnected to form a clamp that encircles the pipe or conduit 14 all around for 360°. The conduit or pipe is not connected in any way to the cross members. Rather, two cross members 22, 23 are interconnected to each other (not to the pipe) by a plug-in connection 28, please see especially Fig. 3 of McFarland. With regard to Annison, a tongue and groove connection between a locking bar and two harbor dock sections does not anticipate a tongue and groove connection between a flexible guard hose and a spacer. Therefor, claim 28 is not anticipated.

- 11) Summarizing, each of the two references does not disclose any of the features claimed in combination in new claims 22 to 41 because the features of the references are not the equivalent of much less the same as the features recited in the present claims 22 to 41. Therefore, withdrawal of all rejections under 35 USC 102(b), and favorable consideration and allowance of claims 22 to 41 are respectfully requested.

- 12) Favorable reconsideration and allowance of the application, including all present claims 22 to 41, are respectfully requested.

Respectfully submitted,
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Applicant

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Enclosures:
Request for RCE
Form PTO-2038
Transmittal Cover Sheet

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